

Union Calendar No. 285

112TH CONGRESS
2^D SESSION

H. R. 4086

[Report No. 112–413]

To amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2012

Mr. CHABOT (for himself, Mr. CONYERS, Mr. SMITH of Texas, and Mr. COHEN) introduced the following bill; which was referred to the Committee on the Judiciary

MARCH 19, 2012

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Cultural Ex-
5 change Jurisdictional Immunity Clarification Act”.

6 **SEC. 2. CLARIFICATION OF JURISDICTIONAL IMMUNITY OF**
7 **FOREIGN STATES.**

8 (a) IN GENERAL.—Section 1605 of title 28, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 “(h) JURISDICTIONAL IMMUNITY FOR CERTAIN ART
12 EXHIBITION ACTIVITIES.—

13 “(1) IN GENERAL.—If—

14 “(A) a work is imported into the United
15 States from any foreign country pursuant to an
16 agreement that provides for the temporary exhi-
17 bition or display of such work entered into be-
18 tween a foreign state that ~~it~~ is the owner or
19 custodian of such work and the United States
20 or one or more cultural or educational institu-
21 tions within the United States,

22 “(B) the President, or the President’s des-
23 ignee, has determined, in accordance with Pub-
24 lic Law 89–259 (22 U.S.C. 2459), that such
25 work is of cultural significance and the tem-

1 porary exhibition or display of such work is in
 2 the national interest; ~~and~~, *and*

3 “(C) the notice thereof has been published
 4 in accordance with subsection (a) of Public Law
 5 89–259,

6 any activity in the United States of such foreign
 7 state, or of any carrier, that is associated with the
 8 temporary exhibition or display of such work shall
 9 not be considered to be commercial activity by such
 10 foreign state for purposes of subsection (a)(3) of
 11 this section.

12 “(2) ~~NAZI ERA~~ *NAZI-ERA* CLAIMS.—Paragraph
 13 (1) shall not apply in any case in which—

14 “(A) the action is based upon a claim that
 15 the work was taken in Europe in violation of
 16 international law by a covered government dur-
 17 ing the covered period;

18 “(B) the court determines that the activity
 19 associated with the exhibition or display is com-
 20 mercial activity, as that term is defined in sec-
 21 tion 1603(d) of this title; and

22 “(C) such determination is necessary for
 23 the court to exercise jurisdiction over the for-
 24 eign state under subsection (a)(3) of this sec-
 25 tion.

1 “(3) DEFINITIONS.—For purposes of this sub-
2 section—

3 “(A) the term ‘work’ means a work of art
4 or other object of cultural significance;

5 “(B) the term ‘covered government’
6 means—

7 “(i) the Nazi government of Germany;

8 “(ii) any government in any area oc-
9 cupied by the military forces of the Nazi
10 government of Germany;

11 “(iii) any government established with
12 the assistance or cooperation of the Nazi
13 government of Germany; and

14 “(iv) any government that was an ally
15 of the Nazi government of Germany during
16 the covered period; and

17 “(C) the term ‘covered period’ means the
18 period beginning on January 30, 1933, and
19 ending on May 8, 1945.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to any civil action commenced on
22 or after the date of the enactment of this Act.

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